

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

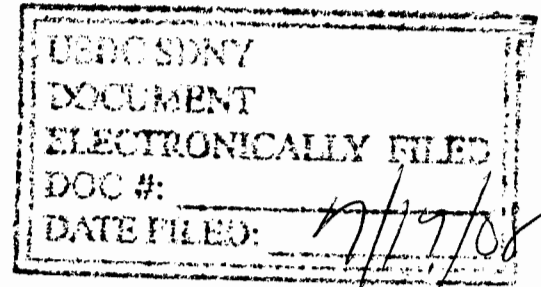
-----X  
JAVIER CESARIO et al.,

Plaintiffs ,

-against-

BNI CONSTRUCTION, INC. et al.,

Defendants.  
-----X



07 Civ. 8545 (LLS) (GWG)

**SCHEDULING ORDER  
FOR DAMAGES INQUEST**

**GABRIEL W. GORENSTEIN, United States Magistrate Judge:**

This matter having been referred to me to conduct an inquest and to report and recommend concerning plaintiff's damages, it is hereby ORDERED that:

1. Plaintiff shall serve defendants (by mail at the last known address) and file Proposed Findings of Fact and Conclusions of Law concerning damages and any other monetary relief permitted under the default judgment no later than September 2, 2008. Plaintiff shall include with such service a copy of this Order. The submission shall contain a concluding paragraph that succinctly summarizes what damage amount (or other monetary relief) is being sought, including the exact dollar amount being sought.

2. Plaintiff's Proposed Findings of Fact should specifically tie the proposed damages figure(s) to the legal claim(s) on which liability has been established; should demonstrate how plaintiff has arrived at the proposed damages figure(s); and should be supported by one or more affidavits, which may attach any documentary evidence establishing the proposed damages.

Each Proposed Finding of Fact shall be followed by a citation to the paragraphs of the

affidavit(s) and/or page of documentary evidence that supports each such Proposed Finding.<sup>1</sup>

To the extent the Proposed Findings contain any allegations regarding liability, the Proposed Finding should cite to the appropriate paragraph of the complaint.

In lieu of conclusions of law, plaintiff may submit a memorandum of law setting forth the legal principles applicable to plaintiff's claim or claims for damages (including but not limited to the legal basis for any claim for interest or attorney's fees).

Defendants shall send to plaintiff's counsel and file with the Court their response, if any, to plaintiff's submissions no later than October 1, 2008.

3. The Court hereby notifies the parties that it may conduct this inquest based solely upon the written submissions of the parties. See Action S.A. v. Marc Rich & Co., 951 F.2d 504, 508 (2d Cir. 1991); Fustok v. ContiCommodity Servs. Inc., 873 F.2d 38, 40 (2d Cir. 1989). To the extent that any party seeks an evidentiary hearing on the issue of damages, such party must set forth in its submission the reason why the inquest should not be conducted based upon the written submissions alone, including a description of what witnesses would be called to testify at a hearing and the nature of the evidence that would be submitted.

4. An extra copy of any document filed with the Court shall be sent or delivered to the following address:

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<sup>1</sup>Any request for attorney's fees must be supported by contemporaneous time records showing, for each attorney, the date of service, the hours expended, and the nature of the work performed. The Conclusions of Law shall include a paragraph setting forth the legal basis for any requested award of attorney's fees.

Judge Gabriel W. Gorenstein  
United States Courthouse  
500 Pearl Street  
New York, NY 10007-1581

5. The Court notes that the Pro Se Office at the United States Courthouse, 500 Pearl Street, Room 230, New York, New York ((212) 805-0175) may be of assistance to the defendants in connection with court procedures.

Dated: New York, New York

July 17, 2008

SO ORDERED:

  
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GABRIEL W. GORENSTEIN  
United States Magistrate Judge

Copies mailed to:

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